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BANK OF AMERICA, N.A., and  
12 LARRY P. JOHNSTON

13 **UNITED STATES DISTRICT COURT**

14 **NORTHERN DISTRICT OF CALIFORNIA**

16 ART MICHELETTI, an individual,

Case No. C 08-3557 JSW

17 Plaintiff,

**STIPULATION AND [PROPOSED]  
ORDER REMANDING ACTION TO  
STATE COURT**

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18 v.

19 BANK OF AMERICA, N.A., a national  
20 banking association, LARRY P. JOHNSTON,  
an individual, and DOES 1-10,

22 Defendants.

## STIPULATION

WHEREAS, Plaintiff Art Micheletti filed this action on July 16, 2008, in California Superior Court for the County of San Francisco;

WHEREAS, both Plaintiff Art Micheletti and Defendant Larry P. Johnston are citizens of California;

WHEREAS, on July 24, 2008, Defendant Bank of America removed the action to this Court, arguing that diversity jurisdiction exists because Defendant Johnston's joinder was a sham;

WHEREAS, the parties have met and conferred and agree to remand this action to California Superior Court for the County of San Francisco without need for briefing or argument;

NOW THEREFORE, the parties to this action hereby stipulate that the action be remanded by this Court to the California Superior Court for the County of San Francisco.

DATED: September 5, 2008

KERR & WAGSTAFFE LLP

By                         /s/  
ADRIAN J. SAWYER

Attorneys for Plaintiff  
**ART MICHELETTI**

DATED: September 5, 2008

BUCHALTER NEMER

By                   /s/  
RICHARD C. DARWIN

Attorneys for Defendants  
BANK OF AMERICA, N.A., and  
LARRY P. JOHNSTON

1                           **[PROPOSED] ORDER**  
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3                           Pursuant to the stipulation of the parties, IT IS HEREBY ORDERED that this action be  
4  
5 and hereby is REMANDED to the California Superior Court for the County of San Francisco.  
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7                           Dated: September 8, 2008  
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11                          HON. JEFFREY S. WHITE  
12                          UNITED STATES DISTRICT JUDGE  
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